

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 1:15-CR-378 PGG**

UNITED STATES OF AMERICA,
Plaintiff,

-V.S.-

FREDY RENAN NAJERA MONTOYA,
Defendant.

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MOTION TO COMPEL PRODUCTION OF BILLING AND FEE RECORDS

Defendant Fredy Renan Najera Montoya, by and through the undersigned attorney moves this court for the entry of an order disclosing attorney Victor Rocha's billing and fee records, submitted under seal by letters dated November 29, 2018 and December, 2018. See also Defendant's letter motion dated July 3, 2019 (Dkt. No 105).¹

1. On October 24, 2019, this Court entered an Order requiring Attorney Victor Rocha to submit an affidavit responding to Defendant's assertions regarding Attorney Rocha's conflict of interest, preparation, and investigation in connection with the case. (See Dkt. No. 127).

2. On November 7, 2019, Rocha submitted under seal a document entitled Affidavit of Victor E. Rocha (See Dkt. No. 128).

3. The undersigned did not receive a copy of attorney Rocha's affidavit until November 14, 2019 where pursuant to a court order a copy of the affidavit was submitted to the government and defense counsel via facsimile. (See Dkt No. 130).

¹ Defendant is not requesting the letters to be unsealed, but that facsimile copies be provided to defense counsel and the government

4. Attorney Rocha's Affidavit indicates that "in order to prepare an appropriate defense for this Defendant, numerous pretrial motions were filed including the Rule 15 motion and memorandum of law to take depositions of witnesses that investigation had shown would be helpful to the defendant. Rocha's Affidavit (Dkt. No. 128 Sealed) 10-5,7. He also mentions spending "weeks and months of intensive preparation" to defend the case. Rocha's Affidavit (Dkt. No. 128 sealed), 10-5, 6.

5. On July 3, 2019, Defendant filed a letter motion asking the court to provide copies of Attorney Rocha's on November 29 and December 4th, letters that presumably reflect the "hundreds of hours" spent reviewing Discovery and the 3500 materials in this case.

6. The court relied upon these records to find that hundreds of hours were used to review Discovery and 3500 materials. The Court has not yet entered a ruling with respect to the relief sought in the letter motion dated July 3, 2019. (Dkt. No. 105)

7. In preparation for the hearing presently scheduled for December 6, 2019 at 10:00 am (See Dkt. No. 127), Defendant is requesting that the billing and fee records be provided to the defendant in advance of the hearing scheduled for December 6, 2019. This information is essential to properly cross examine attorney Rocha's testimony

8. Although the government has no standing to object to a request pertaining to the relationship between Defendant and his then attorney, Victor Rocha, the undersigned has no objection to the government receiving a copy of the aforementioned billing and fee records via facsimile.

Wherefore, defendant prays for the entry of an order:

- a) Releasing to defense counsel, and if appropriate to the government, attorney Rocha's fee and billing records submitted to the court on November 29, 2018 and December 4, 2018.
- b) Maintaining the above mentioned letters sealed.

Respectfully submitted,

/s/ Joaquin Perez

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed this 15th day of November, 2019 VIA CM/ECF filing system and to all parties of record via the same system.

/s/ Joaquin Perez

Joaquin Perez, Esq.